

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3059
Administrative Law Judge Division
March 15, 2001

R E S O L U T I O N

RESOLUTION ALJ 176-3059. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to

the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 15, 2001, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President

HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3059 (03/15/2001)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-02-017 SOUTHERN CALIFORNIA EDISON COMPANY, for Rehearing of Resolution E-3712	*	*	*
A01-02-018 SAN DIEGO GAS & ELECTRIC COMPANY, for Approval of a Pay-For-Measured Savings Pilot	Ratesetting	Ratesetting	YES
A01-02-019 SOUTHERN CALIFORNIA EDISON COMPANY, Application regarding Pay-For-Measured Savings Pilot Proposal for 2002 Low Income Energy Efficiency Program	Ratesetting	Ratesetting	YES
A01-02-020 SOUTHERN CALIFORNIA GAS COMPANY, for Approval of a Pay-For-Measured Savings Pilot	Ratesetting	Ratesetting	YES
A01-02-021 BLUE & GOLD FLEET, L.P., to increase fare levels for the transportation of passengers in vessel common carrier service between the Alameda Gateway area and the Port of Oakland, on the one hand, and authorized points in San Francisco and Angel Island State Park, on the other hand, and to establish a zone of rate freedom for these common carrier transportation services	Ratesetting	Ratesetting	NO
A01-02-022 MULTA COMMUNICATIONS, CORP., dba MULTACOM, for registration as interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-02-023 CAL-ORE LONG DISTANCE, for registration as interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-02-024 AT&T COMMUNICATIONS OF CALIFORNIA, INC., WORLDCOM, INC., for the Commission to reexamine the recurring costs and prices of unbundled switching in its first annual review of unbundled network element costs pursuant to Ordering Paragraph 11 of D99-11-050	Ratesetting	Ratesetting	NO

*Application for Rehearing of Resolution is assigned to Legal Division.
Categorization/Need for Hearing will be addressed as necessary if the Commission
subsequently grants rehearing.

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3059 (03/15/2001)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-02-025 RIDDELL, JOHN J., for authority to transfer water meter from 1198 Date Street, Montara, CA to 570 Stetson Street, Moss Beach, CA, located within the unincorporated area of San Mateo County and serviced by Citizens Utilities Company	Adjudicatory	Ratesetting	YES
A01-02-026 CATALINA RED & WHITE CRUISES, INC., for a Certificate of Public Convenience and Necessity to Operate as a vessel common carrier between Long Beach and Los Angeles (San Pedro), California on the one hand and all points and places on Santa Catalina Island on the other hand, and between all points and places at and within three miles of Santa Catalina Island; request for interim operating authority	Ratesetting	Ratesetting	NO
A01-02-027 FRANKLIN, KEITH GERARD, dba FRANKLIN CARTAGE, for Authority to Operate as a Household Goods Carrier	Ratesetting	Ratesetting	NO
A01-02-028 SEA PLANES INCORPORATED, for the Authority to Operate as a Passenger Ocean Ferry Corporation between the points of Marina Del Rey and Avalon on Catalina Island	Ratesetting	Ratesetting	YES
A01-02-029 ONSITE ACCESS LOCAL, LLC, for an Order Granting Expanded Authority to Provide Limited Facilities-Based Local Exchange and Limited Facilities-Based Interexchange Telecommunications Service in the State of California	Ratesetting	Ratesetting	NO
A01-02-030 SOUTHERN CALIFORNIA EDISON COMPANY, for an Order under Section 701 of the Public Utilities Code Granting to it Authorization to Recover Transmission Revenue Requirement Reclassification Memorandum Account [TRRRMA] Costs	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3059 (03/15/2001)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-02-032 ABDISAMAD M. DERIA, dba COMFORT EXPRESS SHUTTLE SERVICE, for Authority to operate as a passenger stage corporation between points in San Francisco, Contra Costa, Alameda and Santa Clara and the San Francisco, San Jose and Oakland International Airports, and to Establish a Zone of Rate Freedom	Ratesetting	Ratesetting	NO
A01-02-033 WILLIAMS COMMUNICATIONS, LLC, for authority to construct specified telecommunications facilities	Ratesetting	Ratesetting	NO
A01-02-034 TELEPHONE CONNECTION/LOCAL SERVICES, LLC, (U-5522-C), for the Commission to Reexamine the Recurring Costs and Prices of the DS-3 Entrance Facility Without Equipment in its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050	Ratesetting	Ratesetting	NO
A01-02-035 AT&T COMMUNICATIONS OF CALIFORNIA, INC., WORLDCOM, INC., for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Loops in its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050	Ratesetting	Ratesetting	NO
A01-02-036 PARK WATER COMPANY, for Authority to Amend Evidence of Indebtedness (Notes) Issued under the Authority of the P.U.C. Decision No. 97-03-019	Ratesetting	Ratesetting	NO
A01-02-037 DAVID BELL, dba BELL MOVING COMPANY, for a Household Good Carrier Permit	Ratesetting	Ratesetting	YES
A01-03-002 PHILLIPS PETROLEUM COMPANY, TOSCO CORPORATION, Joint; for Authority to Transfer Control of a Public Utility Pursuant to Section 854 of the Public Utilities Code	Ratesetting	Ratesetting	NO
A01-03-003 TOLEDO AREA TELECOMMUNICATIONS SERVICES, dba BYCKEYE TELESYSTEM, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3059 (03/15/2001)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-03-005 SPRINT COMMUNICATIONS COMPANY, L.P., to Transfer California Local Residential Resale Customer Base and Withdraw the Provision of Local Residential Resale Service	Ratesetting	Ratesetting	NO
A01-03-006 IP NETWORKS, INC., for an Extension of its Authority from a Limited to a Full Facilities-Based Competitive Local Carrier and Interexchange Carrier	Ratesetting	Ratesetting	NO
A01-03-007 NORTE.COM INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-03-008 METROMEDIA FIBER NETWORK SERVICES, INC., PACIFIC GAS AND ELECTRIC COMPANY, for Commission Approval for Irrevocable Lease for Metromedia Fiber Network Services, Inc. to Use Fiber Optic Cable on certain PG&E Transmission Facilities under terms of an Optical Fiber Installation and IRU Agreement	Ratesetting	Ratesetting	NO
A01-03-009 PENINSULA CORRIDOR JOINT POWERS BOARD, for Authority to construct a new pedestrian underpass at the City of San Mateo Downtown Transit Center in the City of San Mateo, County of San Mateo	Ratesetting	Ratesetting	NO
A01-03-010 CROY, BRYAN S., dba BRYAN CROY MOVING SYSTEMS, for a Household Goods Carrier Permit	Adjudicatory	Ratesetting	YES
A01-03-011 SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT, for an Order authorizing construction on two light rail vehicle (LRV) tracks and closure of one existing at-grade crossing at the San Ysidro Intermodal Transportation Center (SYITC) development in the City of San Diego, San Diego County, California	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3059 (03/15/2001)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-03-012 DUKE ENERGY GENERATING LLC, DUKE ENERGY MERCHANTS LLC, DUKE ENERGY MORRO BAY LLC, DUKE ENERGY MOSS LANDING LLC, DUKE ENERGY OAKLAND LLC, DUKE ENERGY SOUTH BAY LLC, DUKE ENERGY TRADING & MARKETING LLC, for Rehearing of Resolution L-293	*	*	*
A01-03-013 NETGURU, INC., dba NETGURU, for a Certificate of Public Convenience and Necessity to Offer Local Exchange Access and Interexchange Services	Ratesetting	Ratesetting	NO
A01-03-014 PACIFIC CENTREX SERVICES, INC., for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based and Resold Competitive Local Exchange, and Interexchange Services in the State of California	Ratesetting	Ratesetting	NO